

### **REMARKS**

Applicant's undersigned attorney thanks the Examiner for his comments. Applicant respectfully requests reconsideration of this Patent Application, particularly in view of the above Amendment and the following remarks. No additional fee is due for this Amendment because the number of independent claims has not changed and the total number of claims has not changed.

#### **Request for Telephone Interview**

Applicant requests the Examiner contact the undersigned at (847) 490-1400 to schedule a telephone interview to discuss the merits of this Patent Application.

#### **Amendment to the Claims**

Applicant has amended Claim 1 to clarify the claimed invention by reciting that no element of the snap hinge extends outward beyond an outer surface plane of the lateral wall region. Applicant has amended Claim 13 to depend from Claim 12, instead of directly to Claim 11. Support for this Amendment can be found at, for example, page 7, last paragraph. No new matter has been added by this Amendment.

#### **Claim Rejections - 35 U.S.C. §112**

Claims 1-26 have been rejected under 35 U.S.C. §112, second paragraph, for including double brackets in the amended claims of the First Preliminary Amendment. Applicant notes that the Patent Office's "Revised Amendment Practice" prescribes the use of double brackets in Amendments for deletion of words of five characters or less. The double brackets indicated deletions, and the claims above reflect those deletions.

Claim 13 has been further rejected for not having antecedent basis for the limitation “the intermediate elements.” Applicant has amended Claim 13 to depend from Claim 12 for clarity, and to add back the previously deleted “the”.

### **Claim Rejections - 35 U.S.C. §102**

The rejection of Claims 1-3, 6-8, 13 and 14 under 35 U.S.C. §102(b) as being anticipated by Leach, U.S. Patent No. 2,961,119, is respectfully traversed.

The Leach Patent does not disclose or suggest a snap hinge. As is clearly visible in both FIGS. 2 and 5, the member 17 is just a portion of material or bridge having the same thickness and extension as the lateral wall 15, and also has a rather narrow width, so that it is definitely not suited to provide any snap action.

Snap hinges move between stable positions, one of which is the closed position while the other is the open (completely open) position. Positions between open and closed are generally unstable. Upon opening a closure with a snap hinge and exceeding a certain angle (typically about 90°) between the cap and the lower closure part, the elastic forces in the hinge area are acting such that the cap will be further moved to and retained in the open position (e.g., about 180° pivot angle from the closed position between cap and lower part). With a smaller (< 90°) starting angle, the snap hinge will tend to return the cap toward the closed position.

In contrast, with the closure taught by the Leach Patent, the elastic forces acting in hinge 17 will always tend to return the cap toward the closed position from any open position, thereby impeding the pouring of liquids from a corresponding container if the cap is not actively retained in the open position by the fingers of the users or by any other separate means.

As the Leach Patent does not disclose or suggest a snap hinge, the Leach Patent does not provide each and every limitation of Claim 1. Favorable reconsideration and withdrawal of this anticipation rejection are respectfully requested.

**Claim Rejections - 35 U.S.C. §102**

The rejection of Claim 1 under 35 U.S.C. §102(b) as being anticipated by Stull, U.S. Patent No. 5,437,383, is respectfully traversed.

Claim 1 recites that all elements of the snap hinge are positioned in a lateral wall region of the closure which run parallel to a closing and opening movement direction of an injection mold. Applicant has amended Claim 1 to further clarify this limitation by reciting that the no element of the snap hinge extends outward beyond an outer surface plane of the lateral wall region. As seen in FIG. 1 of the Stull Patent, the hinge 36 extends outward beyond the outer surface of the cap wall.

The Stull Patent does not teach each and every limitation of amended Claim 1. Favorable reconsideration and withdrawal of this anticipation rejection are respectfully requested.

**Claim Rejections - 35 U.S.C. §103**

The rejection of Claim 4 under 35 U.S.C. §103(a) as being unpatentable over Leach, U.S. Patent No. 2,961,119, in view of Mueller et al., U.S. Patent Publication 2003/0116879, is respectfully traversed. Claim 4 depends from Claim 1, and is thus patentable for at least the same reasons as Claim 1.

The rejection of Claim 5 under 35 U.S.C. §103(a) as being unpatentable over Leach, U.S. Patent No. 2,961,119, in view of Harrold et al., U.S. Patent 6,631,820, is respectfully traversed. Claim 5 depends from Claim 1, and is thus patentable for at least the same reasons as Claim 1.

The rejection of Claim 9 under 35 U.S.C. §103(a) as being unpatentable over Leach, U.S. Patent No. 2,961,119, in view of Neveras et al., U.S. Patent 5,386,918, is respectfully traversed. Claim 9 depends from Claim 1, and is thus patentable for at least the same reasons as Claim 1.

The rejection of Claim 10 under 35 U.S.C. §103(a) as being unpatentable over Leach, U.S. Patent No. 2,961,119, is respectfully traversed. Claim 10 depends from Claim 1, and is thus patentable for at least the same reasons as Claim 1.

The rejection of Claims 11 and 12 under 35 U.S.C. §103(a) as being unpatentable over Leach, U.S. Patent No. 2,961,119, in view of Stull, U.S. Patent 5,437,383, is respectfully traversed. Claim 11 and 12 depend from Claim 1, and are thus patentable for at least the same reasons as Claim 1.

Furthermore, adding the snap hinge of the Stull Patent to the Leach Patent does not provide or suggest Applicant's claimed invention. As discussed above, the Stull Patent teaches that the hinge 36 extends outward beyond the outer surface of the cap wall. There is no teaching or suggestion in the alleged combination to form Applicant's snap hinge with no element of the snap hinge extending outward beyond an outer surface plane of the lateral wall region.

#### **Allowable Subject Matter**

Applicant thanks the Examiner for his effort in identifying that Claims 15-26 contain allowable subject matter. Applicant believes that, in view of the above Amendment and remarks, all claims are now in condition for allowance.

#### **Conclusion**

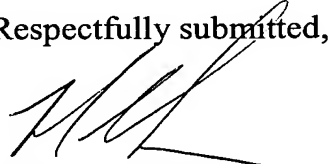
Applicant intends to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicant

Serial No. 10/501,178

has not addressed or resolved in this response, the undersigned attorney again requests a telephone interview with the Examiner.

Applicant sincerely believes that this Patent Application is now in condition for allowance and, thus, respectfully requests early allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'MDS', with a long horizontal line extending to the right.

Mark D. Swanson  
Registration No. 48,498

Pauley Petersen & Erickson  
2800 West Higgins Road, Suite 365  
Hoffman Estates, Illinois 60195  
(847) 490-1400  
FAX (847) 490-1403